

### **REMARKS/ARGUMENTS**

Claim 1 has been amended to clarify the language contained therein. Support for the amendment to claim 1 may be found throughout the specification. No new matter has been added. Reconsideration of this Application and entry of this Amendment after Final are respectfully requested. The proposed Amendment places the claims in better form for appeal. In view of the amendment to claim 1 and following remarks, favorable consideration and allowance of the application are respectfully requested.

#### **Non-Statutory Obviousness-Type Double Patenting Rejection**

In the Office Action dated July 25, 2007, claims 1-3 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,905,477 ("the '477 patent") in view of Fischell et al. (U.S. Patent No. 5,334,187). Applicants respectfully traverse this rejection.

Claim 1 recites a catheter and guidewire exchange system that includes, *inter alia*, a guide member having an outer member and an inner member. As recited by claim 1, the outer member is selectively rotatable relative to and around the inner member. As conceded by the Examiner, the claims of the '477 patent do not disclose all of the features of claim 1 of the present application. The Examiner relies on Fischell et al. to make up for the deficiency.

However, Fischell et al. does not disclose or suggest a guide member having an outer member and an inner member, the outer member being selectively rotatable relative to and around the inner member, as recited by claim 1. The Examiner has broadly construed the slide handle (30), the Y-connector (60) and the guiding catheter (70) as the recited "guide member" of claim 1. Aside from the fact that one of ordinary skill in the art would not construe all three pieces (30, 60, 70) of Fischell et al. to be a guide member, Applicants respectfully submit that the Tuohy-Borst fitting (63) and the Luer lock fitting (65), which the Examiner has construed to be the recited "outer member" (in the alternative) do not rotate around the tube (45) that is located within the slide handle (30). As such, Fischell et al. does not make up for the deficiency of the '477 patent.

In view of the foregoing, Applicants respectfully submit that claims 1-3 of the present application are not obvious variations of claims 1 and 2 of the '477 patent. Accordingly, Applicants respectfully request that the rejection of claims 1 and 2 be withdrawn.

#### **35 U.S.C. §102 Rejection**

In the Office Action, claims 1-3 were rejected under 35 U.S.C. §102(b) as being anticipated by Fischell et al. Applicants respectfully traverse this rejection.

Claim 1 and Fischell et al. are discussed above. As discussed above, neither the Tuohy-Borst fitting (63) nor the Luer lock fitting (65) rotates around the tube (45) that is located within the slide handle (30). Moreover, the tube (45), which the Examiner has construed to be the recited "inner member," does not have "a catheter passageway extending there through for slidably receiving the catheter shaft and a guide wire passageway for slidably receiving the guide wire for merging the guide wire and the catheter by guiding the guide wire transversely through the guide way and into the first lumen and for separating the guide wire and catheter by guiding the guide wire transversely out of the first lumen through said guide way," as recited by claim 1. As such, Fischell et al. does not disclose or suggest every feature of claim 1.

In view of the foregoing, Applicants respectfully submit that claim 1 and the claims that depend from claim 1 are patentable over Fischell et al., and respectfully request that the rejection of claims 1-3 be withdrawn.

#### Conclusion

For the foregoing reasons, Applicants believe all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-0221.

Respectfully submitted,

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